

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebborn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

REMARKS

This Amendment is responsive to the Final Office Action mailed November 6, 2002. In that Office Action, claims 1-9, 16, 47, and 48 were rejected under 35 U.S.C. §102(b) as being anticipated by Davis, U.S. Patent No. 2,826,338 ("Davis"). Claims 1, 4-9, 13, 16, and 48 were rejected under 35 U.S.C. §102(b) as being anticipated by Stegath, U.S. Patent No. 1,363,064 ("Stegath"). Claims 1-5, 7-12, 16, 17, 47, and 48 were rejected under 35 U.S.C. §102(b) as being anticipated by Jaarsma, U.S. Patent No. 4,277,000 ("Jaarsma"). Claims 1-12, 16, 17, 19, and 48 were rejected under 35 U.S.C. §102(b) as being anticipated by Ness, U.S. Patent No. 5,588,561 ("Ness '561"). Claims 1-9, 16-18, 47, and 48 were rejected under 35 U.S.C. §102(b) as being anticipated by Ness, U.S. Patent No. 5,753,289 ("Ness '289"). Claims 38-40, 42, and 46 were rejected under 35 U.S.C. §102(b) as being anticipated by Ness '289. Claims 38 and 44-46 were rejected under 35 U.S.C. §102(b) as being anticipated by Simmons, U.S. Patent No. 4,148,417 ("Simmons"), as evident by Binter, U.S. Patent No. 5,735,422 ("Binter"). Claim 15 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289 in view of Newarski, U.S. Patent No. 5,727,679 ("Newarski"). Claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over the Ness '289 Patent in view of Simmons. Claims 19-28, 32-34, and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Ness '289 Patent in view of Ward, U.S. Patent No. 2,026,449 ("Ward") and Smith, U.S. Patent No. 2,170,311 ("Smith"). Claim 29 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289 in view of Ward and Smith and further in view of Stegath. Claim 30 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289 in view of Ward and Smith and further in view of Simmons. Claim 31 was rejected under 35 U.S.C. §103(a) as being unpatentable over the Ness '289 Patent in view of Ward and Smith and further in view of Newarski. Claims 35-37, 50, and 51 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289. Finally, claims 41 and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289 in view of Newarski. With this Office Action, claim 27 has been cancelled, and claims 22 and 35 have been amended. Claims 1-26 and 28-53 remain pending and are presented for reconsideration.

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

Claim Rejections under 35 U.S.C. § 102

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Davis, Stegath, Jaarsma, Ness '561, and Ness '289. Claim 1 relates to a container comprising first and second compartments assembled to one another in a side-by-side fashion. The first compartment tapers at an upper portion thereof to form a spout, and the second compartment tapers at an upper portion thereof to form a mouth. The first and second compartments are assembled to one another in a side-by-side fashion such that the mouth abuts the spout. The two compartments are assembled such that the internal surfaces of the spout and mouth are positioned to each define an interior section and an exterior section. In this regard, the exterior section of the spout internal surface has a radius differing from a radius of the exterior section of the internal surface of the mouth. None of the cited references teach or otherwise suggest at least these limitations.

For example, Davis provides a receptacle having a plurality of fluid tight chambers 16 and 17, each of which can be accessed via pouring spout 14 and 15, respectively. Notably, the spouts 14 and 15 are spaced apart from each other on the top 12 of the receptacle to allow access to the goods within each chamber individually on an as-needed basis (as for goods such as automobile cleaner and automobile polish). As such, Davis fails to teach or otherwise suggest a container in which "the mouth abuts the spout" (emphasis added) as recited in claim 1. Consequently, for at least the above-described reasons, Davis fails to teach or otherwise suggest the limitations of claim 1.

Stegath similarly fails to teach the limitations of claim 1. Stegath relates to a "duplex tube which may hold two preparations, so that both preparations may be always found together." (Page 1, Lines 20-23). The tube of Stegath provides for individual access of the two preparations, such as lotion and shaving cream, and consequently, provides for two discharge openings being spaced from one another to allow for individual access of each of the preparations. In fact, mixing of the two preparation would be undesirable. Moreover, in each of the embodiments illustrated in Figures 1-8 the two openings are clearly spaced apart from each other and, as such, do not abut. Notably, Figure 9 is a cross-section of Figure 7 that does not depict the opening arrangement. As a result, Stegath fails to teach or otherwise suggest positioning the compartments of the container in a "fashion such that the mouth abuts

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

the spout" as recited in claim 1. Accordingly, Stegath fails to teach or otherwise suggest the limitations of claim 1.

Jaarsma also fails to teach or otherwise suggest the limitations of claim 1. Jaarsma provides a multi-compartment container with an individual outlet port for each compartment within the container. (Column 1, Lines 6-10). Jaarsma fails to teach a first and second compartment each of which "tapers at an upper portion thereof to form" a spout or mouth, respectively, as recited in claim 1. "Taper" is defined to mean "to become progressively smaller at one end." *Merriam-Webster Online Dictionary*, www.m-w.com/cgi-bin/dictionary. Conversely, despite the small beveled edge 28, the compartment 30 actually becomes progressively larger toward the upper portion of the compartment 30 due to the positioning of the divider wall 20 within the container 10. (Figures 2 and 5). A similar analysis can be made for compartment 30A with regard to divider wall 20A. (Figure 7).

Furthermore, Jaarsma provides a multi-compartment container 10 "preferably formed of thermal plastic material by an injection molding process such that the walls 18, 20 are of integral one-piece construction." (Column 2, Lines 45-47). Therefore, due to the one-piece construction of the walls 18 and 20, the compartments 30 and 32 are also formed as one integral piece. As such, Jaarsma teaches away from first and second compartments "assembled to one another," as a single piece cannot be assembled to itself. As a result, Jaarsma also fails to teach or otherwise suggest the limitations of claim 1.

Ness '561 and Ness '289 (which have identical specifications and are hereinafter referred to collectively as "Ness") teach a dual compartment container adapted to hold dry and liquid foods. Ness provides for container 10 with a cup 12, which defines a dry food compartment 16 and a liquid food compartment 18, and a lid 14 with a protruding opening 13 to regulate product flow from the cup 12. As such, neither compartment 16 nor compartment 18 "tapers at an upper portion thereof to form a spout." Rather, compartments 16 and 18 terminate in an opening configured to receive a lid 14 which contains a protruding opening 13 or spout 96. Accordingly, Ness requires a separate lid to close off the compartments 16 and 18 and to regulate flow of goods from the compartment 16 and 18. As stated in Applicant's previous response, without a separate lid 14 as recited in claim 1, a user attempting to dispense product from the cup 12 alone will experience great difficulties in

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

achieving necessary control over product flow, primarily caused by the cup's 12 lack of dispensing spout or mouth. In addition, the protruding opening 13 is not tapered as it extends substantially straight up from the lid 14. (Figure 1, 2, and 6).

Moreover, compartments 16 and 18 of cup 12 terminate in relatively large openings. As described above, these opening provide little control over dispense of product from the compartments 16 and 18. Claim 1, conversely, requires a first compartment forming a spout and a second compartment forming a mouth. Notably, the two claimed compartments form different and specific types of openings. Spouts generally are thought to provide a relatively smaller opening than the body or container from which it is formed or extends; wherein a mouth is a more general opening. The choice of terminology in claim 1 should be given full effect and, consequently, "spout" should be given its ordinary meaning. "Spout" is ordinarily defined as "a pipe or conductor through which a liquid is discharged or conveyed in a stream." *Merriam-Webster Online Dictionary*, www.m-w.com/cgi-bin/dictionary. As such, Ness fails to teach or otherwise suggest a compartment that tapers to form a spout, as the openings of each compartment 16 and 18 of Ness are relatively large openings that fail to control dispersion of consumables in a stream-like manner.

Alternatively, even if the upper opening of the compartments 16 and 18 of Ness are considered to be the mouth and the spout, both openings have identical radii along their exterior sections as necessary to effectuate formation of a seal between lid 14 and cup 12 (especially in the preferred threaded embodiment). As recited in claim 1, the first compartment forms a spout defining a spout internal surface that forms a passage, and the second compartment includes a mouth defining a mouth internal surface that forms an opening. Upon final assembly of the two compartments, the internal surfaces of the spout and mouth are positioned to each define an interior section and an exterior section. In this regard, the exterior section of the spout internal surface has a radius differing from a radius of the exterior section of the internal surface of the mouth. Examples of this configuration are provided in FIGS. 5B and 5C of the Application in issue. While the interior sections associated with the compartment walls of Ness may or may not have differing radii, the exterior sections clearly have identical radii.

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

In particular, referring to Figure 3 of Ness, "the exterior section of the spout internal surface" may refer to the section of the cup surface opposite the cup surface having threads 24, which runs around the exterior perimeter of compartment 18. Similarly, "the exterior section of the mouth internal surface" may refer to the section of the cup surface opposite the cup surface having threads 24, which runs around the exterior perimeter of compartment 16. As such, but for divider wall 17, the exterior section of the mouth internal surface and the exterior section of the spout internal surface would combine to form an upper, circular, internal perimeter surface of cup 12. Since the two surfaces together form a circular surface, the exterior section of the spout internal surface and the exterior section of the mouth internal surface each have the same radius. Ness fails to suggest modification of this relationship, as each embodiment maintains a consistent radius. (Figures 2-6). In light of the above, Ness fails to teach or otherwise suggest limitations of claim 1.

For at least the reasons described above, claim 1 is not taught or otherwise suggested by any of the cited references. Consequently, Applicants respectfully submit that claim 1 is allowable.

Claims 2-13, 16-18, and 48 were also rejected under 35 U.S.C. § 102(b), and each depends from claim 1. As previously described, claim 1 is not taught or otherwise suggested by any of the cited references. Therefore, claims 2-13, 16-18, and 48 are similarly allowable.

Claim 47 was rejected under 35 U.S.C. § 102(b) as being anticipated by Ness '289. Ness fails to teach or otherwise suggest the limitations of claim 47 for similar reasons as advanced with respect to claim 1. As described with respect to claim 1, the radius of the external section of the spout internal surface the same as the radius of the exterior section of the mouth internal surface. Therefore, "the radius of the exterior section of the spout internal surface is" not "less than the radius of the exterior section of the mouth internal surface" as recited in claim 47. As such, claim 47 presents additional matter that is not taught by Ness. As a result, claim 47 is allowable.

Claim 38 was rejected under 35 U.S.C. §102(b) as being anticipated by Ness and by Simmons as evident by Binter. Claim 38 relates to a method of manufacturing a portable, single-use container including providing a first compartment, which tapers to form a spout, and a second compartment, which tapers to form a mouth, dispensing a first consumable

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

product into the first compartment, covering the spout with a seal, dispensing a second consumable product into the second compartment, assembling the first and second compartments to one another, and covering the mouth and seal with a cover. Upon final assembly of the container, the mouth abuts the spout. The cited references fail to teach or otherwise suggest such limitations.

In particular, Ness, as described above with respect to claim 1, fails to teach "providing a first compartment tapering at an upper portion thereof to form a spout," as the compartments 16 and 18 form openings sized to receive a lid 14, which in turn controls product dispersion. As such, neither compartment 16 nor 18 forms a spout as recited in claim 38. Moreover, the Examiner's reference to Figure 6 and Column 5, lines 10-29 relates to a non-separable embodiment and, therefore, fails to teach assembly of the first and second compartments to one another as required by claim 38.

Furthermore, Ness fails to teach or otherwise suggest "covering the mouth and seal with a cover" wherein a seal covers the spout separate of the mouth. The dual-compartment cup 12 of Ness is covered by a single lid or cover. When the two-compartment 50 and 52 of Ness are individually stored with separate covers, upon reunion of the compartments 16 and 18 the lid is "placed thereover which keeps the containers together and allows dry and liquid food to be dispensed therefrom." (Column 4, Lines 53-65). In order for the lid to "allow dry and liquid food to be dispensed therefrom," the separate covers must be removed before the single lid or cover is placed on the container, as otherwise the separate covers would prevent food from being dispensed. In addition, the consumer applied separate covers of Ness are most likely threaded or snap-on covers. If such covers remained on the cup, the covers would surely frustrate the application of the lid to the cup, which also utilizes threading or snap-on attachment. As such, Ness does not teach or otherwise suggest a cover that covers both the mouth and the sealed spout as required by claim 38.

Simmons provides a fluid dispenser for two fluid like products. The dispenser or container 11 or 51 includes a central partition wall or web 16 that divides the dispenser into two compartments. Although the embodiment of Simmons illustrated in Figure 1 may provide for separately covering the mouth and the spout, the mouth and the spout do not abut and the spout does not have two covers. The embodiment of Simmons illustrated in Figure 2

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

may have a mouth and spout that abut one another, however, they are not separately sealed (single fitment/cap 57 covers both the spout and the mouth). In addition, the container of Simmons is an integral container, and as such fails to teach or otherwise suggest "assembling the first and second compartments to one another" as recited in claim 38. As such, Simmons fails to teach or otherwise suggest the limitations of claim 38. Consequently, claim 38 is believed to be allowable.

Claims 39, 40, 42, and 44 - 46 were rejected in a similar manner as claim 38 and depend from claim 38. As previously described, claim 38 is not taught or otherwise suggested by any of the cited references and is allowable. Accordingly, dependent claims 39, 40, 42, and 44 - 46 are also believed to be allowable.

Claim Rejections under 35 U.S.C. § 103

Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ness '289 in view of Simmons, and claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ness '289 in view of Newarski. Each of claims 14 and 15 depends from claim 1. As described above, none of the cited references teach or otherwise suggest the limitations of claim 1. Accordingly, claims 14 and 15 are also allowable.

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ness '289 in view of Ward and Smith and under 35 U.S.C. § 102(b) as being anticipated by Ness '561. Claim 19 relates to a portable, single-use packaged good article. Claim 19 includes "a first compartment tapering at an upper portion thereof to form a spout." As described above with respect to claim 1, Ness fails to teach or otherwise suggest such a limitation. Furthermore, Ness fails to suggest modifying the container 10 to meet the limitations of claim 19, as such a modification would frustrate the reusable nature of Ness as cleaning the container 10 for future use would be impractical if the compartment itself tapered to form a spout rather than having a removable lid 14 form the opening.

In addition, Ness only provides for separable containers 50 and 52 as illustrated in Figure 4 (notably all other references to separable containers refers back to Figure 4 and its accompanying description). In light of the limited application of separable containers provided by Ness, Applicants respectfully request reconsideration and Examiner reaction to

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

the argument presented on page 14 and 15 of Applicants Response to Paper Number 6, regarding the reliance of Ness on linear, angular surfaces to interlock the two separable containers 50 and 52.

For at least the above described reasons, Ness fails to teach or otherwise suggest the limitations of claim 38. Consequently, claim 38 is believed to be allowable.

Ward and Smith fail to alter this analysis. Ward relates to a drinking glass that maintains separate fluids and the glass terminates with two separate openings, neither of which tapers to form a spout for similar reasons as described with respect to Ness. Similarly, Smith relates to a bowl with dual (but not separate) compartments that also terminate with enlarged end openings. Therefore, for similar reasons as described with respect to Ness, Smith does not teach or otherwise suggest forming a spout. For at least the above described reasons, none of the cited references teach or otherwise suggest claim 19, and it is, therefore, allowable.

Claims 20, 21, and 49 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289 in view of Ward and Smith. Claims 20, 21, and 49 depend from claim 19. As described above, claim 19 is not taught or otherwise suggested by any of the cited references and is allowable. Accordingly, claims 20, 21, and 49 are also allowable.

Claim 22 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289 in view of Ward and Smith, and claim 35 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289. Amended claim 22 relates to a portable, single-use container and amended claim 35 relates to a portable, single-use packaged good article, both of which include at least a first compartment, a second compartment, a first compartment opening for dispensing a product from the first compartment, and a second compartment opening for dispensing a second consumable product from the second compartment. The first compartment opening is defined by a spout integrally formed as one piece with the first compartment. None of the cited references teach this limitation.

As described above, the compartments of Ness terminate in relatively large openings which fail to form a "spout" as defined by its ordinary meaning. Furthermore, Ness teaches away from integrally forming a spout with the first compartment as Ness provides a reusable container. Ness allows for modifications to the shape and design "to provide a surface which

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rehborn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

is easier to clean" (Column 6, Lines 29 - 31). However, integrally forming the first compartment with the spout will make the first compartment difficult, if not nearly impossible, to clean and, therefore, is in direct contrast with the teachings of Ness. Moreover, Ward and Smith also fail to provide for formation of a spout to define a first compartment opening.

Furthermore, despite the conventionality of the two compartment containers of Ward and Smith, Ness fails to suggest modification of its design to reverse the concave and convex nature of divider wall 17. In fact, Ness desires the dry food compartment 16 to be as large as possible as it must accommodate relatively large and rigid food particles that are not able to fit within smaller spaces, such as those created within the liquid food compartment 18 where the divider wall 17 meets the cup wall 22, as well as liquid mediums. One of ordinary skill in the art would only appreciate the desirability of a second compartment opening including a transverse concave section upon access to the Applicants' disclosure. As such, the Examiner is using the Applicants' own disclosure as motivation to combine the cited references, which is impermissible. As such, none of the cited references teach or otherwise suggest the limitations of amended claim 22 or amended claim 35. Consequently, amended claims 22 and 35 are allowable.

Claims 23-34 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289 in view of Ward and Smith, some of which the rejection is further based upon Stegath, Simmons, or Newarski. Each of claims 23-34 depend from amended claim 22. As described above, amended claim 22 is not taught or otherwise suggested by any of the cited references and is allowable. Therefore, dependent claims 23-34 are also allowable.

Claims 36, 37, 50, and 51 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289. Claims 36, 37, 50, and 51 depend from amended claim 35. As described above, amended claim 35 not taught or otherwise suggested by any of the cited references and is allowable. Consequently, claims 36, 37, 50, and 51 are also allowable.

Claims 41 and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ness '289 in view of Newarski. Claims 41 and 43 depend from claim 38. As described above, claim 38 is not taught or otherwise suggested by the cited references and is allowable. As such, dependent claims 41 and 43 are also allowable.

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

CONCLUSION

In light of the above, Applicant believes independent claims 1, 19, 22, 35, and 38 and the claims depending therefrom, are now in condition for allowance. Allowance of these claims is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 500471.

Attached hereto is a marked-up version of the changes made to the specification and/or the claims by the current Amendment. The attached pages are captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE**".

The Examiner is invited to contact the Applicants' Representative at the below-listed telephone number if there are any questions regarding this response.

Respectfully submitted,

John Rebhorn et al.,

By their attorneys,

DICKE, BILLIG & CZAJA, P.A.

701 Building, Suite 1250

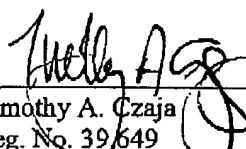
701 Fourth Avenue South

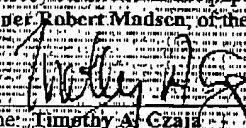
Minneapolis, MN 55415

Telephone: (612) 573-2004

Facsimile: (612) 573-2005

Date: JANUARY 6 2003
TAC:jmc:jms:kmd


Timothy A. Czaja
Reg. No. 39649

<p>CERTIFICATE UNDER 37 C.F.R. 1.18: The undersigned hereby certifies that this paper or papers, as described herein, are being transmitted by facsimile to the attention of Examiner Robert Madsen, of the Patent and Trademark Office, (703) 872-9311 on this 6th day of January, 2003.</p> <p>By  Timothy A. Czaja</p>

EXPEDITED PROCEDURE
Examining Group Number 1700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	John Rebhorn et al.	Examiner:	Robert A. Madsen
Serial No.:	09/781,582	Group Art Unit:	1761
Filed:	February 12, 2001	Docket No.:	5515USA (G180.137.101)
Due Date:	January 6, 2003		
Title:	PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS, ESPECIALLY CEREAL AND MILK		

AMENDMENT AND RESPONSE UNDER 37 C.F.R. 1.116

Box AF
Commissioner for Patents
Washington, D.C. 20231

**VERSION WITH MARKINGS
TO SHOW CHANGES MADE**

Dear Sir/Madam:

This Amendment is responsive to the Final Office Action mailed November 6, 2002.
Please amend the above-identified patent application as follows:

IN THE CLAIMS

Please cancel claim 27.

Please amend claims 22 and 35 as follows:

1. A portable, single-use container for separately containing a first and a second consumable product, the container comprising:
 - a first compartment for containing a first consumable product, the first compartment tapering at an upper portion thereof to form a spout forming a passage along a spout internal surface; and
 - a second compartment for containing a second consumable product, the second compartment tapering at an upper portion thereof to form a mouth forming an opening along a mouth internal surface;wherein the first and second compartments are assembled to one another in a side-by-side fashion such that the mouth abuts the spout, and further wherein upon final assembly, the spout and mouth are positioned such that each of the respective internal surfaces define an interior section and an exterior section,

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebborn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

the exterior section of the spout internal surface having a radius differing from
a radius of the exterior section of the mouth internal surface.

2. The container of claim 1, wherein the first and second compartments each include a body portion having an exterior surface and an interior surface, the interior surfaces abutting each other upon final assembly.
3. The container of claim 2, wherein the respective interior surfaces are relatively planar.
4. The container of claim 1, wherein the first compartment includes a body portion, a neck, and the spout, the neck tapering in outer dimension from the body portion to the spout.
5. The container of claim 4, wherein the body portion of the first compartment defines an interior surface and an exterior surface, and further wherein the spout is substantially transversely aligned with the interior surface and substantially transversely offset from the exterior surface.
6. The container of claim 4, wherein the exterior surface of the first compartment body portion is arcuate in transverse cross-section, defining a maximum diameter, the spout being substantially centered relative to the maximum diameter.
7. The container of claim 1, wherein the second compartment includes a body portion, a neck, and the mouth, the neck tapering in outer dimension from the body portion to the mouth.
8. The container of claim 7, wherein the body portion of the second compartment defines an interior surface and an exterior surface, and further wherein the mouth is substantially transversely aligned with the interior surface and substantially transversely offset from the exterior surface.

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

9. The container of claim 7, wherein the exterior surface of the second compartment body portion is arcuate in transverse cross-section, defining a maximum diameter, the mouth being substantially transversely centered relative to the maximum diameter.
10. The container of claim 1, wherein the mouth is configured to wrap about a portion of the spout upon final assembly.
11. The container of claim 10, wherein a portion of the mouth is concave in transverse cross-section for wrapping about a portion of the spout.
12. The container of claim 11, wherein a portion of the spout is convex in transverse cross-section, corresponding with the concave portion of the mouth.
13. The container of claim 1, wherein upon final assembly, respective bottoms of the first and second compartments are substantially aligned, and the spout extends to a height less than a height of the mouth.
14. The container of claim 1, further comprising:
a film wrapped about the first and second compartments to secure the first compartment to the second compartment.
15. The container of claim 1, further comprising:
a membrane secured across the passage defined by the spout to seal the first compartment.
16. The container of claim 1, further comprising:
a cap selectively secured to the mouth.
17. The container of claim 16, wherein the cap selectively encompasses the mouth and the spout.

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebborn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

**Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK**

18. The container of claim 1, wherein the first compartment contains milk and the second compartment contains cereal.

19. A portable, single-use packaged good article comprising:
a first compartment tapering at an upper portion thereof to form a spout having a curved, convex interior wall;
a first consumable product contained within the first compartment;
a second compartment formed separate of the first compartment and tapering at an upper portion thereof to form a mouth having a curved, concave interior wall;
a second consumable product contained within the second compartment;
wherein the first and second compartments are assembled to one another in a side-by-side fashion such that the mouth abuts the spout, the first consumable product being contained separate from the second consumable product.

20. The packaged good article of claim 19, wherein the first consumable product is a liquid consumable product and the second consumable product is a dry consumable product.

21. The packaged good article of claim 20, wherein the liquid consumable product is milk and the dry consumable product is cereal.

22. (Twice Amended) A portable, single-use container for separately containing a first and a second consumable product, the container comprising:

- a first compartment for containing a first consumable product;
- a second compartment for containing a second consumable product, the first and second compartments being secured to one another in a side-by-side fashion and combining to define a body of the container;
- a first compartment opening for dispensing a first consumable product from the first compartment, the first compartment opening having a transverse cross-sectional area less than a maximum transverse cross-sectional area of the first

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

compartment, wherein the first compartment opening is defined by a spout
integrally formed as one piece with the first compartment; and

a second compartment opening for dispensing a second consumable product from the second compartment, the second compartment opening including a transverse concave section and having a transverse cross-sectional area less than a maximum transverse cross-sectional area of the second compartment, the transverse cross-sectional area of the second compartment opening being greater than the transverse cross-sectional area of the first compartment opening;

wherein at least one of the first and second compartment openings is substantially centered relative to the body.

23. The container of claim 22, wherein the first and second compartment openings are positioned side-by-side upon final assembly to define a pour region for the container, the pour region having a central axis substantially aligned with a central axis of the body.

24. The container of claim 23, wherein the body and the pour region are substantially circular in transverse cross-section.

25. The container of claim 22, wherein the first and second compartment openings are defined by respective side walls configured such that a portion of the second compartment opening side wall wraps about a portion of the first compartment opening side wall.

26. The container of claim 25, wherein the concave section is configured to receive a corresponding convex section of the first compartment opening side wall.

27. (Cancelled) ~~The container of claim 22, wherein the first compartment includes an integrally formed spout defining the first compartment opening.~~

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

28. The container of claim 27, wherein the second compartment includes an integrally formed mouth defining the second compartment opening.
29. The container of claim 28, wherein upon final assembly, respective bottoms of the first and second compartments are substantially aligned, and the spout extends to a height less than a height of the mouth.
30. The container of claim 22, further comprising:
a film wrapped about the first and second compartments to secure the first compartment to the second compartment.
31. The container of claim 22, further comprising:
a film secured across the first compartment opening for sealing the first compartment.
32. The container of claim 22, further comprising:
a cap selectively secured over the second compartment opening.
33. The container of claim 32, wherein the cap selectively encompasses the first and second compartment openings.
34. The container of claim 22, wherein the first compartment contains milk and the second compartment contains cereal.
35. (Twice Amended) A portable, single-use packaged good article comprising:
a first compartment;
a first consumable product contained within the first compartment;
a second compartment secured to the first compartment in side-by-side fashion, the first and second compartments combining to define a container body;
a second consumable product contained within the second compartment;

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

a first compartment opening for dispensing the first consumable product from the first compartment, the first compartment opening having a transverse cross-sectional area less than a maximum transverse cross-sectional area of the first compartment, wherein the first compartment opening is defined by a spout integrally formed as one piece with the first compartment; and

a second compartment opening for dispensing the second consumable product from the second compartment, the second compartment opening having a transverse cross-sectional area less than a maximum transverse cross-sectional area of the second compartment, the transverse cross-sectional area of the second compartment opening being at least three times greater than the transverse cross-sectional area of the first compartment opening;

wherein at least one of the first and second compartment openings is substantially centered relative to the container body.

36 The packaged good article of claim 35, wherein the first consumable product is a liquid consumable product and the second consumable product is a dry consumable product.

37. The packaged good article of claim 36, wherein the liquid consumable product is milk and the dry consumable product is cereal.

38. A method of manufacturing a portable, single-use container separately containing two consumable products, the method comprising:

- providing a first compartment tapering at an upper portion thereof to form a spout;
- providing a second compartment tapering at an upper portion thereof to form a mouth, the first and second compartment being configured for assembly to one another in a side-by-side fashion;
- dispensing a first consumable product into the first compartment;
- covering the spout separate of the mouth with a seal that seals the first consumable product within the first compartment;
- dispensing a second consumable product into the second compartment;

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

assembling the first and second compartments to one another; and
covering the mouth and the seal with a cover;
wherein upon final assembly, the mouth abuts the spout.

39. The method of claim 38, wherein the second compartment is assembled to the first compartment before dispensing the second consumable product.
40. The method of claim 38, wherein the second compartment is assembled to the first compartment after dispensing the second consumable product.
41. The method of claim 38, further comprising:
aseptically sterilizing the first compartment before dispensing the first consumable product.
42. The method of claim 38, wherein the first consumable product is a liquid consumable product and the second consumable product is a dry consumable product.
43. The method of claim 42, wherein the liquid consumable product is milk and further wherein dispensing milk occurs in an aseptically sterilized environment.
44. The method of claim 38, wherein assembly of the first and second compartments includes:
wrapping a shrink label about the first and second compartments.
45. The method of claim 38, wherein covering the second compartment includes selectively securing a cap over the mouth and the spout.
46. The method of claim 38, wherein the spout and the mouth combine to define a pour region, and further wherein assembling the first and second compartments includes substantially centering the pour region relative to a remainder of the container.

Amendment and Response Under 37 C.F.R. 1.116

Applicant: John Rebhorn et al.

Serial No.: 09/781,582

Filed: February 12, 2001

Docket No.: 5515USA

Title: PORTABLE, SIDE-BY-SIDE COMPARTMENT CONTAINER AND
METHOD FOR SEPARATELY STORING AND DISPENSING TWO CONSUMABLE PRODUCTS,
ESPECIALLY CEREAL AND MILK

47. The container of claim 1, wherein the radius of the exterior section of the spout internal surface is less than the radius of the exterior section of the mouth internal surface.

48. The container of claim 16, wherein the mouth defines an opening, and further wherein the container is adapted to require complete removal of the cap from the mouth to expose the opening.

49. The container of claim 19, wherein the spout defines a circle in transverse cross-section and the mouth defines a non-circle in transverse cross-section.

50. The container of claim 35, wherein the transverse cross-sectional area of the second compartment opening is at least four times greater than the transverse cross-sectional area of the first compartment opening.

51. The container of claim 50, wherein the transverse cross-sectional area of the second compartment opening is at least five times greater than the transverse cross-sectional area of the first compartment opening.